

**UNITED STATES DISTRICT COURT
IN THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

DIONICIO CARBAJAL,
Petitioner

v.

RICK THALER,
Respondent

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Civil No. CC-07-146

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT


In this case, *pro se* Petitioner Dionicio Carbajal, who is currently incarcerated at the Huntsville Unit in Huntsville, Texas, challenges the validity of his 2004 indecency with a child, sexual assault of a child, and aggravated sexual assault of a child convictions in San Patricio County, Texas. *See* 28 U.S.C. §2254. Pending before the Court is Respondent's motion for summary judgment (D.E. 53). The United States Magistrate Judge recommends the Court grant Respondent's motion because Petitioner has not demonstrated that he is entitled to habeas corpus relief (D.E. 61). Despite having been given an extension of time, Petitioner has failed to file any objections.

The Court regards such omission as Petitioner's agreement with and acceptance of the Magistrate Judge's findings. When no timely objection to the Magistrate Judge's Memorandum and Recommendation is filed, the Court need only satisfy itself that there is no "clear error" on the face of the record in order to accept the Magistrate Judge's recommendation. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Services Auto. Ass'n.*, 79 F.3d 1415, 1420 (5th Cir. 1996)). The Court

finds no clear error in the Magistrate Judge's memorandum and adopts her findings and conclusions.

Respondent's motion for summary judgment is GRANTED (D.E. 53). Petitioner's application for habeas corpus relief is DENIED. Should Petitioner seek a certificate of appealability, it is DENIED.

ORDERED this 9 day of March, 2010.



HAYDEN HEAD
SENIOR U.S. DISTRICT JUDGE